

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

APR - 2 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLANDUnited States of America
v.
GLENN DERWIN UPSHAW

Case No.

4-14-70481

MAG

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 20, 2014 in the county of Alameda in the
Northern District of California, the defendant(s) violated:

Code Section

18 USC § 922(g)(1)

Offense Description

The defendant, having been previously convicted of a crime punishable by a term of imprisonment exceeding one year, knowingly possessed, in and affecting interstate and foreign commerce, a firearm, namely a loaded Glock .45 caliber pistol bearing serial number WDD448.

Maximum penalties: 10 years in prison; \$250,000 fine; 3 years supervised release; and a \$100 special assessment.

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

☒ Continued on the attached sheet.

Approved as to form:

Brian C. Lewis
Brian Lewis, AUSABeth Alvarez

Complainant's signature

Beth Alvarez, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

4/2/14

Kandis Westmore

Judge's signature

City and state: Oakland, California

Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT OF BETH ALVAREZ

I, Beth Alvarez, after being duly sworn, depose and say as follows:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against Glenn Derwin Upshaw for possessing a firearm, in violation of 18 U.S.C. §922(g)(1). The facts set forth in this affidavit are based on my review of written reports, my personal observations, my training and experience, and information from other law enforcement officials. However, these facts are not all of the facts related to this investigation that I know. I have set forth those facts that I believe are sufficient to establish probable cause that Glenn Derwin Upshaw committed the aforementioned offense.

II. AGENT'S BACKGROUND

2. I am employed by the Federal Bureau of Investigation (FBI) as a Special Agent and have been so employed since November 2002. I am currently assigned to a squad in Oakland, California that investigates violent crimes in Alameda County. Included in my duties is the enforcement of all laws related to illegal possession of firearms. I have received law enforcement training throughout my employment. During my employment, I have participated in dozens of firearms investigations and arrests and spent time talking with other law enforcement officers regarding these investigations. In the course of the investigation described in this affidavit, I have consulted with other federal agents and local law enforcement officers who have written affidavits for or participated in the application for and execution of hundreds of search and arrest warrants over the course of their careers.

3. As a Special Agent of the FBI, I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with authority to execute arrest and search warrants under the authority of the United States.

III. APPLICABLE LAW

4. Title 18 U.S.C. § 922(g)(1) provides that "[i]t shall be unlawful for ... any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year[,] ... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition...."

IV. FACTS ESTABLISHING PROBABLE CAUSE

5. According to police reports, on March 20, 2014, at around 2:20 p.m., officers of the Oakland Police Department were on routine patrol in the 5800 block of East 16th Street, an area known by both officers to be a frequent location of violence and narcotics trafficking. The officers saw a group of men standing in front of an abandoned residence and as they drew closer, one of the men looked at the officers and then immediately ran away while the rest of the men stayed behind. The man who ran away was later identified as Glenn Derwin Upshaw.

6. One of the officers got out of the patrol car and ordered Upshaw to stop. Upshaw ignored the officer, running toward the back yard of the abandoned residence. Upshaw removed a plank from a wooden fence in order to gain access to the back yard. The officer pursued Upshaw through the fence, and he saw Upshaw getting up off the ground as if he had fallen. As Upshaw attempted to get to his feet, the officer saw a handgun sticking out of Upshaw's waistband at his right hip. The officer drew his service weapon, pointed it at Upshaw, and ordered him to surrender. Upshaw complied and was handcuffed without further incident.

7. Upshaw was searched and officers found a loaded Glock .45 caliber pistol bearing serial number WDD448 in Upshaw's waistband on his right hip. Upshaw was arrested for possessing the handgun and advised of his Miranda rights. Upshaw declined to give a statement.

8. I have reviewed Upshaw's criminal history and learned that he has suffered three felony convictions, including convictions in 2011 for willful infliction of corporal injury, in violation of California Penal Code § 273.5(a) and for assault with a deadly weapon, in violation of California Penal Code § 245; a conviction in 2009 for possession of a controlled substance, in violation of California Health and Safety Code § 11350(a); and a conviction in 2002 for sale or transportation of a controlled substance, in violation of California Health and Safety Code § 11352(a).

9. From interviews conducted in prior investigations, I know that Glock handguns are produced in either Austria or Smyrna, Georgia, and have never been produced in the state of California.

* * *

V. CONCLUSION

10. Based on the foregoing facts, my training and experience, and consultation with other law enforcement agents with experience in criminal investigations, I believe Glenn Derwin Upshaw, on or about March 20, 2014, in the Northern District of California, was a felon unlawfully possessing a firearm, in violation of 18 U.S.C. § 922(g)(1).

DATED this 2nd day of April 2014.

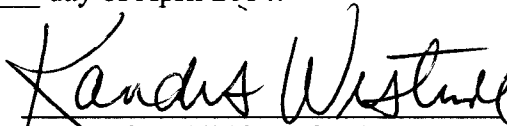


BETH ALVAREZ

Special Agent

Federal Bureau of Investigation

Subscribed and sworn to before me this 2nd day of April 2014.



KANDIS A. WESTMORE

United States Magistrate Judge